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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
10/038,120	11/09/2001	Bing Zhou	15913.6.1	5527	
7:	590 09/01/2004		EXAM	INER	
RICK D. NYDEGGER			JOHNSON, EDWARD M		
WORKMAN NYDEGGER & SEELEY 1000 FAGLE GATE TOWER			ART UNIT	PAPER NUMBER	
60 EAST SOUTH TEMPLE			1754		
SALT LAKE CITY, UT 84111			DATE MAILED: 09/01/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	4				
Advisory Action	10/038,120	ZHOU ET AL.					
Autiony Aution	Examiner	Art Unit					
	Edward M. Johnson	1754					
The MAILING DATE of this communication appe	ars on the cover sheet with the c	orrespondence add	ress				
THE REPLY FILED 16 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.							
PERIOD FOR REPLY [check either a) or b)]							
<ul> <li>a) The period for reply expiresmonths from the mailing date of the final rejection.</li> <li>b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.         ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</li> <li>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension</li> </ul>							
fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
1. A Notice of Appeal was filed on Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.							
2. The proposed amendment(s) will not be entered because:							
(a) 🔯 they raise new issues that would require further consideration and/or search (see NOTE below);							
(b) ☐ they raise the issue of new matter (see Note below);							
(c) ☑ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or							
(d) they present additional claims without canceling a corresponding number of finally rejected claims.							
NOTE: See Continuation Sheet.							
3. Applicant's reply has overcome the following rejection(s):							
4. Newly proposed or amended claim(s) <u>1-3,5,6,17-20 and 22-28</u> would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).							
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet</u> .							
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.							
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.							
The status of the claim(s) is (or will be) as follows:							
Claim(s) allowed: <u>8-16 and 35</u> .							
Claim(s) objected to: 4.							
Claim(s) rejected: <u>1-3,5-7 and 30-34</u> .							
Claim(s) withdrawn from consideration: <u>17-20 and 22-28</u> .							
B. ☐ The drawing correction filed on is a) ☐ approved or b) ☐ disapproved by the Examiner.							
9. Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)							
10. Other:							
<del>-</del>							

## Application No. \$10/038,120

## Continuation Sheet (PTOL-303)

Continuation of 2. NOTE: the proposed amendment would insert, into claims 30-31, the phrase "characterized as promoting" and "but no reduction", which would be a new issue requiring further consideration and/or search with respect to those claims. It would also replace in claim 33, "comprising" with "consisting essentially of", which would also be a new issue requiring further consideration and/or search.

Continuation of 5. does NOT place the application in condition for allowance because: It is argued that claims 30-31 and 33-34 would be allowable as amended. This is not persuasive because the amendment to those claims has not been entered. It is noted that the features upon which applicant relies (i.e., the features of the proposed amendment) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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